

Appl. No. 10/034,171
Amdt. Dated 11/22/05
Reply to Office Action of August 25, 2005

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed August 25, 2005. In the Office Action, claims 1-20 were rejected under 35 U.S.C. § 103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 103

Claims 1-12 and 14-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Farber (U.S. Patent No. 6,158,598) in view of Aviani (U.S. Patent No. 6,742,044). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See MPEP §2143; see also *In Re Fine*, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988). Herein, the combined teachings of the cited references fail to describe or suggest (i) the combination of the cited references and (ii) all the claim limitations.

A. LACK OF MOTIVATION

First, the Federal Circuit has several times expressly addressed the issue of how to evaluate an alleged case of *prima facie* obviousness to determine whether it has been properly made. For instance, in *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984), the Federal Circuit stated “[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination.” There is no motivation for the combination suggested by the Examiner.

In general, Farber is directed to the presence of one or more origin servers (one shown, denoted 102), and the network of repeater servers (104a, 104b, 104c,...). The teachings involve the offloading of requests for resources by having those requests served by what has come to be known as a content delivery network or “CDN” (the “repeater server network” according to the specification). Thus, requests made of an origin server (or using an origin server’s name) may be handled by the repeater server network in order for the resource to be served. There is no motivation or suggestion for the repeater servers to perform race conditions as allegedly set forth in Aviani that describe a race condition between multiple BOOM client servers A-C based on intercepted messages from client (202) by BOOM server (220). Applicants respectfully request the Examiner to provide such evidence of suggestion.

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B. LACK OF TEACHING/SUGGESTING ALL OF THE CLAIM LIMITATIONS

With respect to independent claim 1, Applicants respectfully submit that neither Farber nor Aviani, alone or in combination, suggest the operation of substituting the Base URI for a HyperText Markup Language (HTML) Base tag within each of the first packets by the personal content directors of at least the first and second local domains. In contrast, Farber teaches a BASE directive, which specifies the resource at the reflector that originally served the resource. *See Col. 16, lines 57-58 of Farber*. The BASE directive differs from the HTML Base tag that is used to point to the local domain of a personal content director (PCD).

Hence, Applicants respectfully request that the §103(a) rejection as applied to independent claim 1 and those claims dependent thereon be withdrawn.

With respect to independent claim 12, Applicants respectfully submit that neither Farber nor Aviani, alone or in combination, suggest the translating at least one link of the plurality of links to point to that corresponding local domain, and thereafter, transmitting the file and at least the copy of the file to the client for determining one of the plurality of local domains being most proximate to the client. This is the "Meta File" race mode as set forth in the subject application and it is noteworthy that the translation occurs prior to transmission of the file and a copy of the file to the client for determining the most proximate local domain. In contrast, the translation in Farber is solely directed to ensuring that the reflector accesses local resources, and such translation is not used for proximity measurements.

Hence, Applicants respectfully request that the §103(a) rejection as applied to independent claim 12 and those claims dependent thereon be withdrawn.

Claims 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lewis (U.S. Patent No. 6,553,376), Beckerman and Aviani. Applicants respectfully submit that a prima facie case of obviousness has not been established because neither Lewis, Beckerman nor Aviani, alone or in combination, suggest that, at each local domain, translating a location field of the redirect packet to point to that local domain. Thereafter, transmitting the redirect packets from the local domains to the client for determining one of the plurality of local domains being most proximate to the client for downloading the streaming media associated with the first grouping. Reconsideration of the rejection is respectfully requested.

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Conclusion

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: November 22, 2005

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Susan McFarlane

11/22/05

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